



[4910-13-P]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2012-0805; Directorate Identifier 2012-NM-117-AD]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed to rescind an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. The proposed AD action would have rescinded the existing AD, which requires an inspection to determine if certain motor operated valve (MOV) actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. Since the proposed AD action was issued, we have determined that the proposed AD action does not adequately address the safety concerns. Accordingly, the proposed AD action is withdrawn.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, the proposed rule (77 FR 47329, August 8, 2012), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: (425) 917-6509; fax: (425) 917-6590; email: Rebel.Nichols@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) to rescind AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009). That AD applies to the specified products. The NPRM published in the Federal Register on August 8, 2012 (77 FR 47329). That NPRM proposed to rescind AD 2009-22-13, which requires an inspection to determine if certain MOV actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. That AD resulted from fuel system reviews conducted by the manufacturer. The proposed actions were intended to prevent an unsafe condition from being introduced on airplanes affected by AD 2009-22-13.

Comments

We gave the public the opportunity to participate in considering the proposal (77 FR 47329, August 8, 2012) to rescind AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009). The following presents relevant comments received on the proposal and the FAA's response.

Requests to Clarify “Different Unsafe Condition”

UPS and Boeing requested clarification of the different unsafe condition introduced by the actions required by AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009). UPS stated there is no clear direction on which unsafe condition would have a greater impact to the continued safe operation of the airplane, and

subsequently, it is not clear what further action should be done to address airplanes on which the requirements of AD 2009-22-13 have been accomplished.

We agree that clarification of the different unsafe condition is necessary. AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), addresses the potential for an electrical current to flow through certain MOV actuators into the fuel tank. The new MOV actuators are required by AD 2009-22-13 for 11 to 13 locations (depending on configuration) on the airplane, and that AD addresses an unsafe condition related to Special Federal Aviation Regulation No. 88 (“SFAR 88” (66 FR 23086, May 7, 2001), Amendment 21-78, and subsequent Amendments 21-82 and 21-83). However, the new MOV actuators have been found to have a risk of latent failure. At three of the 11 to 13 locations, this actuator failure could result in a different unsafe condition -- an inability to shut off fuel flow to an APU or engine during an engine fire. This latent failure is not a safety risk in the other eight to ten locations.

We have determined that AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), should not be rescinded, but should continue to require actions that address SFAR 88-related safety. Because AD 2009-22-13 does address a significant safety risk, it is not in the interest of safety to rescind that AD. For the new MOV actuators, we are considering further rulemaking to address the three locations where a latent failure of the actuator could result in a failure to shut off fuel flow during an engine fire.

FAA’s Conclusions

Upon further consideration, we have determined that the NPRM (77 FR 47329, August 8, 2012) does not adequately address the safety concern. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM (77 FR 47329, August 8, 2012) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (77 FR 47329, August 8, 2012), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA-2012-0805, Directorate Identifier 2012-NM-117-AD, which was published in the Federal Register on August 8, 2012 (77 FR 47329).

Issued in Renton, Washington, on June 13, 2013.

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